

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

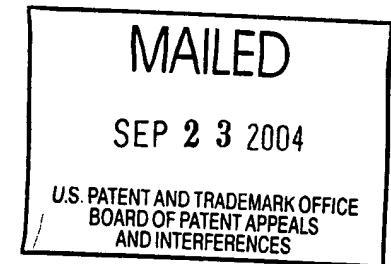
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KLAUS-PETER MAASS, UWE BERGMANN,
ARND G. HERWIG, STEFAN JUTZI,
PATRICE CARDINE, RAINER GRIMM,
KLAUS-DIETER STRAUSS, DANIEL DREWNIOK,
HARALD KOLLNER, GEORG WURM,
PATRICK HOF, SIMON BLAIR DOBSON,
KENNETH W. SCHANG and GREGORY KEYES

Appeal No. 2004-1636
Application No. 09/672,393

ON BRIEF

Before COHEN, MCQUADE and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.



DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 10-24, which are all of the claims pending in this application.

We REVERSE AND REMAND.

BACKGROUND

The appellants' invention relates to a motor vehicle door having an interior sheet metal and an exterior sheeting, surrounding an interior space of the door, and having an opening 18 in the interior sheet metal and having a carrier module to close the opening, the module carrying at least one functional part of the vehicle door, such as a hinge part, lock part or window lift part (specification, page 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The examiner relied upon the following prior art references in rejecting the appealed claims:

Szerdahelyi et al. (Szerdahelyi)	6,067,882	Jun. 20, 2000
	(35 U.S.C. § 102(e) date Jun. 12, 1997)	
Carlo et al. (Carlo)	6,233,875	May 22, 2001
	(filed Apr. 8, 1998)	

The following rejections are before us for review.

Claims 10-13 and 23 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Szerdahelyi.

Claims 14-22 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Szerdahelyi in view of Carlo.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection and answer (Paper Nos. 13 and 25) for the examiner's complete reasoning in

support of the rejections and to the brief and reply brief (Paper Nos. 20 and 22) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Szerdahelyi discloses a motor vehicle door comprising an inner door panel 1b, having an opening 10 therein, an outer door panel 1a, and a module support 3, on which a window lift mechanism 31 is mounted, to close the opening 10. The upper area of the module support 3 is provided with two assembly openings 3a, 3b through which the connection is made during assembly between the lift rail 31a and the fixing elements 20 of the window pane 2 (column 4, lines 10-13). The assembly openings are closed by functional units, such as manual operating means 5 for the door lock, a side airbag 6, an electric drive unit or a structural group for sending drive energy or signals (column 6, lines 20-23).

In reading appellants' claims on the structure of Szerdahelyi, the examiner states the following on page 2 of the final rejection:

Szerdahelyi et al. disclose an interior sheet metal (1b), exterior sheeting, a hollow space (1a),^[1] an opening (10), a carrier module (figure 1b),^[2] and access openings (3a and 3b) "sized large enough to allow entry of the carrier module."

As pointed out by appellants on page 4 of their brief, the openings 3a, 3b which the examiner contends correspond to the "access opening" in appellants' claims are part of the module support 3 (the structure which closes the opening 10) and are smaller than the module support 3. Thus, the examiner's position that these openings are "sized large enough to allow entry of said carrier module into said interior space of said door" is unsound. We, like the examiner (final rejection, page 3), recognize that appellants' claims do not require that the access opening be sized to allow entry of the entire carrier module into the interior space. Nevertheless, openings in the module support of the carrier module itself cannot reasonably be considered to allow entry of the carrier module into the interior space. It follows that we cannot sustain the examiner's rejection of claims 10-13 and 23 as being anticipated by Szerdahelyi, which is grounded on this position.

While the modification proposed by the examiner to substitute the window operating mechanism of Szerdahelyi with that of Carlo seems reasonable to us, this still

¹ Szerdahelyi's reference "1a" actually denotes the outer door panel, with the hollow interior space being that between the inner door panel 1b and the outer door panel 1a.

² We presume that the examiner is reading the "carrier module" of appellants' claims on all of the structure illustrated in Figure 1b.

would not overcome the shortcoming of Szerdahelyi noted above. We thus also cannot sustain the examiner's rejection of claims 14-22 and 24 as being unpatentable over Szerdahelyi in view of Carlo.

REMAND TO THE EXAMINER

This application is remanded to the examiner pursuant to our authority under 37 CFR § 41.50(a)(1) 1.196(a) to consider the following:

1. The examiner should consider whether the limitation in claim 13 that "said closing plate includes said opening of said interior sheet metal and is closed by said carrier module" is inconsistent with the limitation in claim 12, from which claim 13 depends, that "said access opening to said interior space of said door is provided in said interior sheet metal and is closed by a closing plate" so as to render claim 13 indefinite within the meaning of 35 U.S.C. § 112, second paragraph. In other words, if the closing plate closes an access opening in the interior sheet metal, as recited in claim 12, can the closing plate reasonably be considered to be part of the interior sheet metal, so that the closing plate includes the opening in the interior sheet metal?
2. Assuming the examiner determines that the closing plate referred to in claims 12 and 13 is part of the interior sheet metal, the examiner should consider whether the opening in said interior sheet metal, a carrier module, a base plate and an access opening recited in claim 10 read on Szerdahelyi's assembly opening 3a or 3b (the opening), a functional unit, such as the manual operating means 5 for the door lock or a

side airbag (the carrier module), the bearing shell 50 of the manual operating means or the bearing shell 60 of the side airbag (the base plate of the carrier module) and the opening 10 (the access opening), respectively, so as to anticipate claims 10-13.

3. If the examiner determines that the closing plate of claims 12 and 13 is not part of the interior sheet metal, the examiner should consider whether the construction of the exterior sheeting and interior sheet metal, with the large access opening 22 formed at the free edge of the essentially pot-shaped or tub-shaped interior sheet metal, illustrated in appellants' Figure 1 is a conventional construction, in light of other prior art of which the examiner may be aware. If this is a conventional construction, the examiner should then consider whether such a construction would have been obvious for use in Szerdahelyi's door such that the opening in said interior sheet metal and the access opening in appellants' claim 10 read on the opening 10 in the inner door panel 1b and the large access opening formed at the free edge of the essentially pot-shaped or tub-shaped interior sheet metal, respectively, so as to render at least claims 10 and 11 unpatentable.

CONCLUSION

To summarize, the decision of the examiner to reject claims 10-13 and 23 under 35 U.S.C. § 102 and claims 14-22 and 24 under 35 U.S.C. § 103 is reversed and the application is remanded to the examiner for consideration of the issues raised above.

REVERSED AND REMANDED

IRWIN CHARLES COHEN
Administrative Patent Judge

JOHN P. MCQUADE
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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Appeal No. 2004-1636
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Page 8

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